

Applicants : Betty A. Diamond and Bruce T. Volpe
Appn. No. : 10/574,994
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REMARKS

Claims 23-25 and 45-55 were pending in the subject application. Claim 24, 52, and 54 have been withdrawn from consideration by the Examiner. By this amendment, Claims 24, 49, 50, 52 and 53 have been canceled without prejudice or disclaimer, Claims 23, 46, 48 and 51 have been amended, and new Claims 56-57 have been added. The amendments to the claims do not raise an issue of new matter. The features of canceled Claims 49 and 50 have been added to Claim 46. The features of canceled Claim 53 have been added to Claim 23. Support for new Claims 56-57 can be found in Claim 23. The second occurrence of Claim 53 (which appears after Claim 54) has been renumbered as Claim 55. Entry of the amendments is respectfully requested.

Claim Objections

Claim 23 is objected to for not reciting the meaning of the abbreviation "NMDA." The claims have hereinabove been amended accordingly, thereby obviating this objection.

Objections to the Specification

The Examiner indicated that the specification contains sequences for which a sequence identifier (SEQ ID NO:) has not been provided. In reply, applicants note that sequence identifiers for the sequences indicated by the Examiner were added to the specification in an amendment dated March 25, 2008. Additional sequence identifiers were added in an amendment dated June 17, 2009. Accordingly, reconsideration and withdrawal of this objection are respectfully requested.

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Priority

The Examiner indicated that the recitation of the word "peripheral" in the term "peripheral blood" in Claim 48 does not appear to be supported by the priority application. Claim 48 has herein above been amended to delete the word "peripheral."

Rejections under 35 U.S.C. §112, Second Paragraph

The Examiner noted that the claims contained two different claims labeled as Claim "53," one of which appeared before Claim 54 and one appeared after Claim 54. The claim appearing after Claim 54 has herein above been re-numbered as Claim 55.

The Examiner indicated that it is unclear from the phrase "wherein X1 represents Asp or Glu" in Claims 50 and 53 whether each of X1 independently represents Asp or Glu. The claims have herein above been amended to clarify that each of X1 independently represents Asp or Glu. This feature is clear, for example, from the sequence in Claim 51, which depended from Claim 50. The features of Claims 50 and 53 have been re-written as part of Claims 23 and 46.

Reconsideration and withdrawal of these rejections are respectfully requested.

Rejections under 35 U.S.C. §112, First Paragraph

Claims 23, 25, 45, 49-50 and 53 are rejected as failing to comply with the written description requirement. In reply, independent Claims 23 and 46 have been amended to include the specific sequences set forth in Claims 50 and 53. The Examiner indicated that the previous wording of the claims could be interpreted as requiring that the agent only include one peptide from the sequence. In reply, the claims have been clarified to indicate that the agent is required to comprise the entire specified amino acid sequence.

Reconsideration and withdrawal of these rejections are respectfully requested.

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Rejections under 35 U.S.C. §102(b)

Claims 23 and 25 are rejected as being anticipated by Gaynor et al. (U.S. Patent No. 6,001,964). Reconsideration and withdrawal of this rejection are respectfully requested in view of the amendment to Claim 23 to include the features of Claim 53, which is not included in the rejection.

Claims 46 and 47 are rejected as being anticipated by DeGiorgio et al. (Nature Medicine 7(11): 1189-93, 2001). Reconsideration and withdrawal of this rejection are respectfully requested in view of the amendment to Claim 46 to include the features of Claims 49 and 50, which are not included in the rejection.

Rejections under 35 U.S.C. §103(a)

Claims 23, 25, 45-51, 53 and 53 are rejected as being unpatentable over Gaynor et al. (U.S. Patent No. 6,001,964) in view of DeGiorgio et al. (Nature Medicine 7(11): 1189-93, 2001). Reconsideration and withdrawal of this rejection are respectfully requested. The cited references do not suggest using an agent comprising amino acid sequence X1-Trp-X1-Tyr-X2 (SEQ ID NO:1) for inhibiting progression of cognitive dysfunction in a mammal diagnosed as exhibiting or as being at risk for lupus-induced cognitive dysfunction.

Obviousness-type double patent rejection

Claim 46 is rejected on the ground of nonstatutory obviousness-type double patenting over Claims 1 and 19 of U.S. Patent No. 7,517,657. Reconsideration and withdrawal of this rejection are respectfully requested in view of the amendment to Claim 46 to include the features of Claims 49 and 50, which are not included in the rejection.

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Request for re-instatement of withdrawn species claim

Upon allowability of an independent claim, re-instatement and consideration of withdrawn dependent species Claim 54 are respectfully requested (37 CFR §1.141, MPEP §806.04(d)).

CONCLUSIONS

In view of the amendments and remarks made hereinabove, reconsideration and withdrawal of the objection and rejections set forth in the January 19, 2010 Office Action and passage of the pending claims to allowance are respectfully requested. If there is any minor matter preventing the allowance of the subject application, the Examiner is requested to telephone the undersigned attorney.

No fee is deemed necessary in connection with this reply. However, if any fee is required to maintain the pendency of the subject application, authorization is hereby given to withdraw the amount of any such fee from Deposit Account No. 01-1785.

Respectfully submitted,

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By 
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